IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 28TH NOVEMBER 2006 / 7TH AGRAHAYANA 1928

WP(C).No. 20983 of 2006(W)

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PETITIONER:

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T.ALI, S/O.LATE YOUSUF,
THOTTINGAL HOUSE, P.O.ATOOR,
MULLORKARA, THRISSUR.

BY ADV. SRI.V.R.KESAVA KAIMAL
SRI.N.M.MADHU

RESPONDENTS:

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1. MULLORKARA GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY,
MULORKARA, THRISSUR.

2. NARAYANAN NAIR, PUTHRATTIL HOUSE,
P.O.ATTOOR, THRISSUR-680 592.

3. LAILA, EDAKKATTIL HOUSE,
P.O.ATTOOR, THRISSUR - 680 592.

4. NARAYANAN NAIR, PERUVANCHERY,
P.O.ATTOOR, THRISSUR - 680 592.

BY ADV. SRI.D.SREEKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**PIUS C.KURIAKOSE, J.**

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**W.P.(C)NO. 20983 of 2006**

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**Dated this 28th day of November, 2006**

**JUDGMENT**

The petitioner's complaint is that the respondents 2 to 4 have encroached upon the Panchayat road situated by the side of his property as a result of which he is not able to access the road at all. Ext.P3 complaint was submitted by the petitioner before the Panchayat, to which Ext.P5 reply was issued to the petitioner. This writ petition inter alia seeks to quash Ext.P5 and to direct the Panchayat to conduct full pledged enquiry into Ext.P3. The petitioner has also contended that if a full pledged enquiry is conducted, he will be able to adduce evidence to prove his complaint that respondents 2 to 4 have encroached upon the Panchayat road and caused obstruction on the road.

2. I have heard the submissions of Sri. V.R.K. Kaimal, the learned counsel for the petitioner and also those of Sri.D.Sreekumar the learned Standing Cousnel for the

Panchayat. The party respondents have not entered appearance before this court though they have been served with notice. Even though I felt initially that the remedy of the petitioner lies before the regular Civil Court, as rightly pointed out by Sri.Kaimal Ext.P5 has been passed by the Panchayat as though the petitioner's complaint was that respondents 2 to 4 have encroached upon the petitioner's property. The petitioner's complaint, as is discernible from Ext.P3, is not that respondents 2 to 4 have encroached upon his property but instead is that the respondents 2 to 4 have encroached upon the Panchayat road as a result of which the petitioner is not able to access the Panchayat road. It is thus clear that the complaint (Ext.P3) submitted by the petitioner has not been examined through proper perspective by the Panchayat.

Under the above circumstances, Ext.P5 is liable to be quashed and I quash the same. The writ petition will stand disposed of directing the Panchayat to take up Ext.P3 once again, issue notice to the respondents 2 to 4, give one opportunity to the petitioner for adducing whatever evidence at his command and take a fresh decision on Ext.P3. This the

Panchayat will do at the earliest and at any rate within two months of receiving a copy of this judgment.

**PIUS C.KURIAKOSE**
**Judge**

dpk